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SERVICE DATE – SEPTEMBER 24, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 438X)

BNSF RAILWAY COMPANY–ABANDONMENT EXEMPTION–IN
MORRISON COUNTY, MN

Decided: September 21, 2007

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 0.58-mile line of railroad that extends between BNSF’s milepost 113.44 and milepost 114.02, near Camp Ripley in Morrison County, MN. Notice of the exemption was served and published in the Federal Register on April 14, 2006 (71 FR 19616). The exemption became effective on May 16, 2006. A decision served on April 13, 2007, granted BNSF’s request to extend the deadline for consummation of the abandonment until April 14, 2008.

By decision served on May 15, 2006, (May 2006 decision) the proceeding was reopened at the request of the Board’s Section of Environmental Analysis (SEA), and the exemption was made subject to four environmental conditions, requiring BNSF to: (1) consult with U.S. Environmental Protection Agency, Region 5, regarding the details of the rail removal and salvage methods that have occurred and what mitigation, if any, would be appropriate, and notify SEA of the results of this consultation; (2) contact the Minnesota Pollution Control Agency (MPCA) concerning the details of what erosion and stormwater runoff mitigation practices were utilized during salvage activities and what mitigation, if any, would be appropriate, and notify SEA of the results of this consultation; (3) contact the MPCA to ensure that it gave proper consideration to the National Pollutant Discharge Elimination System requirements and what mitigation, if any, would be appropriate, and notify SEA of the results of this consultation; and (4) contact MPCA regarding the details of the disposal of salvaged materials, as well as any spills such as oil spills, and determine what mitigation, if any, would be appropriate, and notify SEA of the results of this consultation. BNSF was also required to retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or are listed in the National Register of Historic Places (generally, 50 years old or older) until the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA), has been completed, report back to SEA regarding any consultations with the Minnesota Historical Society (SHPO) and any other section 106 consulting parties, and not file its consummation notice or initiate any further salvage activities related to abandonment until the section 106 process has been completed and the Board has removed this condition.

In its post environmental assessment, SEA states that it has been notified that BNSF has fully complied with environmental conditions 1 through 4. SEA also states that, pursuant to the section 106 regulations of the NHPA at 36 CFR 800.5(b) and following consultation with the SHPO and the public, it has determined that the proposed abandonment would likely have an adverse effect on the line, because it is a historic resource. However, SEA states that it and the SHPO have agreed that no mitigation measures would be necessary and have executed a Memorandum of Agreement (MOA) to that effect. SEA further states that it has complied with the section 106 process and filed the MOA with the Advisory Council on Historic Preservation, which completes the Board's compliance responsibilities under section 106 of the NHPA. Therefore, SEA recommends that the section 106 condition be removed.

Accordingly, the proceeding will be reopened. The previously imposed environmental conditions and the historic preservation condition will be removed.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the environmental conditions and the section 106 historic preservation condition imposed in the May 2006 decision are removed.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary